

absorbent article to protect the hook material and provide a pant-like structure before the disposable absorbent article is packaged. Support for these amendments appears in the specification at page 15, line 22 through page 16. No new matter is added by these amendments. Accordingly, claims 35, 43, 44, 48 and 50-57 form the subject matter of this response.

By way of the Office Action mailed October 27, 1998, the Examiner rejected claims 43 and 44 under 35 U.S.C. § 112, second paragraph as being indefinite. In particular, the Examiner stated that they depended upon claim 36 which was canceled. Applicants believe this rejection has been obviated in view of the amendments to claims 43 and 44 discussed above.

By way of the Office Action mailed October 27, 1998, the Examiner rejected claims 35, 43, 44, 48 and 50-57 under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent Number 5,176,670 issued January 5, 1993, to Roessler et al. (hereinafter "Roessler"). This rejection is respectfully traversed.

Roessler describes disposable absorbent article which includes a refastenable mechanical fastener system for closing and opening the waistband. The fastener comprises a hook and loop type fastener. The hook material is preferably mounted to the ears of the article at the rear waistband. The loop material is mounted on the front waistband and is configured to releasably engage the hook material to secure the absorbent article about the waist of a wearer. At column 9, lines 21-27, Roessler teaches that the hook material on the fastener tab 30 in the embodiment illustrated in Fig. 6 may be folded inwardly to lightly grip the topsheet material 21 when the article is packaged prior to use.

The rejected claims, as amended, are directed to a package of disposable absorbent articles which include an outer cover, a bodyside liner, an absorbent core disposed between the outer cover and the bodyside liner, and at least one hook-and-loop type mechanical fastener. The mechanical fastener includes a hook material which includes a base sheet and stemlike projections extending from the base sheet. The stemlike projections are releasably engaged with the disposable absorbent article to protect the hook material before the article is packaged. Independent claim 35 further recites that the base of the hook material is attached to an elastic ear tab and the stemlike projections of the hook material are releasably engaged with the elastic ear tab of the absorbent article prior to packaging. Claims 43 and 44 depend from claim 35 and further recite specific peel strength values between the stemlike projections and the elastic ear tab. Independent claim 48 further recites that the stemlike projections of the hook material are releasably engaged with the absorbent article to protect the

stemlike projections and provide a pant-like structure before the absorbent article is packaged. Claims 50-57 ultimately depend from claim 48 and further recite different arrangements by which the stemlike projections are releasably engaged with the absorbent article to provide the pant-like structure before the absorbent article is packaged.

The Examiner maintains that Roessler describes an absorbent article which includes a hook-and-loop type fastener wherein the hook material is releasably engaged with the loop material on the outer cover of the article. However, Applicants assert that Roessler neither describes nor suggests a package of disposable absorbent articles which include hook-and-loop type fasteners wherein the stemlike projections of the hook fasteners are protected prior to packaging as recited in the rejected claims.

With respect to independent claim 35 and claims 43 and 44 which depend therefrom, Applicants assert that Roessler fails to describe or suggest a package of disposable absorbent articles which include a hook-and-loop type mechanical fasteners wherein the base of the hook material is attached to an elastic ear tab on the absorbent article and the stemlike projections of the hook material are releasably engaged with the elastic ear tab to protect the stemlike projections before the article is packaged. Instead, Roessler, at column 9, lines 21-27 and Fig. 6, describes that the hook material on the fastener tab 30 may be folded inwardly to lightly grip the topsheet material 21 when the diaper is packaged prior to use. Moreover, for the sake of argument, even if the topsheet material 21 in Roessler could be construed to be an ear tab as recited in the claims, Roessler neither describes nor suggests that such topsheet material is elastic. In support of his position, the Examiner refers to the embodiment illustrated in Fig. 11 wherein the base of the hook material is attached to side panels 36 and 37 which may be elastic. However, contrary to the Examiner's assertion, Roessler neither describes nor suggests that the stemlike projections of the hook material in this embodiment may be engaged with such side panels 36 and 37. As such, Applicants assert that Roessler can not be said to anticipate claims 35, 43 and 44.

With respect to independent claim 48 and claims 50-57 which ultimately depend therefrom, Applicants assert that Roessler fails to describe or suggest a package of disposable absorbent articles which include a hook-and-loop type mechanical fastener wherein the stemlike projections of the hook material are releasably engaged with the absorbent article to protect the stemlike projections and provide a pant-like structure before the article is packaged. Instead, Roessler describes that the hook material may be folded inwardly to lightly grip the nonwoven material of the topsheet or inside liner of

the diaper prior to use and that the hook material of the diaper may be releasably engaged with the loop material on the front waistband after removing the diaper from the package and positioning it about the wearer. Releasably engaging the hook material prior to use as taught by Roessler, i.e. inwardly and to the topsheet, would not provide a package of absorbent articles having a pant-like structure as recited in the rejected claims. Instead, the diaper would still be in an unfastened, non pant-like structure as illustrated in Figs. 1, 2 and 6.

Moreover, since Roessler fails to describe or suggest a package of disposable absorbent articles having such a pant-like structure, it follows that Roessler fails to describe or suggest the different manners in which the hook material may be releasably engaged with the absorbent article to protect the hook material and provide the claimed pant-like structure as set forth in claims 50-57. For example, with respect to claims 50, 54 and 55, Applicants assert that Roessler fails to describe or suggest a package of disposable absorbent articles which include a hook-and-loop type mechanical fastener wherein the stemlike projections of the hook material are releasably engaged with the loop material of the absorbent article to protect the stemlike projections and provide a pant-like structure before the article packaged. Instead, Roessler describes that the hook material of the diaper is releasably engaged with the loop material on the front waistband to open and close the waistband to secure the absorbent article about the waist of the wearer after removing the diaper from the package and positioning it about the wearer. Therefore, Applicants assert that Roessler does not anticipate claims 35, 43, 48 and 50-57, as amended.

By way of the Office Action mailed October 27, 1998, the Examiner rejected claim 44 under 35 U.S.C. § 103 as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Roessler). This rejection is respectfully traversed.

Claim 44, as amended, depends from claim 35 and further recites that the stemlike projections of the hook material are releasably engaged with the elastic ear tab to provide certain peel strength values. As discussed above in connection with the rejection of claim 35, Roessler fails to describe or suggest a package of disposable absorbent articles which include a hook-and-loop type mechanical fasteners wherein the base of the hook material is attached to an elastic ear tab on the absorbent article and the stemlike projections of the hook material are releasably engaged with the elastic ear tab to protect the stemlike projections before the article is packaged. Instead, Roessler, at column 9, lines 21-27 and Fig. 6, describes that the hook material on the fastener tab 30 may be folded inwardly to

lightly grip the topsheet material 21 when the diaper is packaged prior to use. Moreover, Applicants assert that Roessler does not suggest and the Examiner has failed to provide any support why one skilled in the art would be motivated to make the changes to Roessler necessary to arrive at the claimed invention. Therefore, Claim 44 is patentable under 35 U.S.C. § 103 over Roessler.

In view of the above amendments and remarks, reexamination, reconsideration and withdrawal of the rejections of claims 35, 43, 44, 48 and 50-57 under 35 U.S.C. § 102(b), 103 and 112 are respectfully requested. Moreover, it is respectfully submitted that all of the presently presented claims are in form for allowance and such action is earnestly solicited.

Please charge any prosecutorial fees which are due to Kimberly-Clark Corporation deposit account number 11-0875. The undersigned may be reached at: (920) 721-8863.

Respectfully submitted,

HEINDEL ET AL.

By: Jeffrey B. Curtin

Jeffrey B. Curtin

Registration No.: 37,601

Attorney for Applicants

CERTIFICATE OF MAILING

I, JoAnn Breister, hereby certify that on January 6, 1999 this document is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

By: JoAnn Breister

JoAnn Breister